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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
2171	5

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/964,132	GENNETTEN ET AL.
	Examiner Etienne P LeRoux	Art Unit 2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 February 2004 .

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-18 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 September 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 6-9, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,095,196 issued to Miyata (hereafter Miyata '196).

**Claim 1:**

Miyata '196 discloses:

- a plurality of uniquely-identifiable data capturing devices [Fig 3A, items 26, 27 and 28, col 3, line 60 through col 4, line 30, Fig 14, item 26, col 9, lines 38-65]
- a warehouse for receiving and storing at least one set of captured data from each device according to an identity of the device that captured each data set [Fig 2, item 9].

**Claim 2:**

Miyata '196 discloses wherein said warehouse comprises a naming service for uniquely-naming each data set from a single capture device [col 2, lines 45-48].

Claim 4:

Miyata '196 discloses wherein said warehouse comprises a client service for providing access to each of the stored data sets [col 2, lines 64-66].

Claim 6:

Miyata '196 discloses wherein said warehouse means comprises data set synchronizer for synchronizing data sets in the data capturing devices with data sets in the warehouse [Fig 7, items 73a, 73b, 73c and col 5, line 67 through col 6, line 6].

Claim 7:

Miyata '196 discloses wherein said data capturing device is a camera [Fig 3A, item 26]

Claim 8:

Miyata '196 discloses:

- receiving at least one set of captured data from each of a plurality of uniquely-identifiable data capturing devices [Fig 3A, items 26, 27 and 28, col 3, line 60 through col 4, line 30, Fig 14, item 26, col 9, lines 38-65]
- storing the received data sets according to an identity of the device that captured each data set [Fig 2, item 9].

Claim 9:

Miyata '196 discloses uniquely-naming each data set from a single capturing device [col 2, lines 45-48].

Claim 11:

Miyata '196 discloses synchronizing the received data sets with stored data sets [Fig 7, items 73a, 73b, 73c and col 5, line 67 through col 6, line 6].

Claim 13:

Miyata '196 discloses a camera [Fig 3A, item 26]

Claims 14-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Pub No. US 2001/0032335 issued to Jones (hereafter Jones '335).

Claim 14:

Jones '335 discloses:

- logic that receives at least one set of captured data from each of a plurality of uniquely identifiable data capturing devices [Fig 7, item 24];
- logic that stores the received data sets according to an identity of the device

that captured each data set [Fig 8]

- logic for providing direct access to each of the stored data sets via the Internet [Fig 7, item 70]

Claim 15:

Jones '335 discloses logic that uniquely-names each data set from a single capturing device [paragraph 71].

Claim 16:

Jones '335 discloses logic that registers each of the data capturing devices to an owner [Fig 8].

Claim 17:

Jones '335 discloses logic that synchronizes the received data sets with stored data sets [Fig 7].

Claim 18:

Jones '335 discloses the data capturing devices are selected from the group consisting of cameras [Fig 7, item 71].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyata '196 in view of Pub No US 2003/0110467 issued to Balakrishnan (hereafter Balakrishnan '467).

Claim 3:

Miyata '196 discloses the elements of claim 1 as noted above.

Miyata '196 fails to disclose wherein said warehouse comprises a mapping service for mapping each data set to a domain of the warehouse corresponding to the device that captured the data set.

Balakrishnan '467 discloses wherein said warehouse comprises a mapping service for mapping each data set to a domain of the warehouse corresponding to the device that captured the data set [paragraph 58].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miyata '196 to include wherein said warehouse comprises a mapping

service for mapping each data set to a domain of the warehouse corresponding to the device that captured the data set as taught by Balakrishnan '467.

The ordinarily skilled artisan would have been motivated to modify Miyata '196 per the above for the purpose of organizing the data in a manner that is transparent to the viewer [paragraph 58].

Claim 10:

Miyata '196 discloses the elements of claim 8 as noted above.

Miyata '196 fails to disclose mapping each data set to a domain corresponding to the device that captured the data set.

Balakrishnan '467 discloses mapping each data set to a domain corresponding to the device that captured the data set [paragraph 58].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miyata '196 to include mapping each data set to a domain corresponding to the device that captured the data set as taught by Balakrishnan '467.

The ordinarily skilled artisan would have been motivated to modify Miyata '196 per the above for the purpose of organizing the data in a manner that is transparent to the viewer [paragraph 58].

Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyata '196 in view of Jones '335.

Claim 5:

Miyata '196 discloses the elements of claim 1 as noted above.

Miyata '196 fails to disclose wherein said warehouse comprises a registrar for registering each of the data capturing devices to an owner.

Jones '335 discloses wherein said warehouse comprises a registrar for registering each of the data capturing devices to an owner [claim 36]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miyata '196 to include wherein said warehouse comprises a registrar for registering each of the data capturing devices to an owner as taught by Jones '335.

The ordinarily skilled artisan would have been motivated to modify Miyata '196 per the above for the purpose of providing a real-time picture communications system [paragraph 13]

Claim 12:

Miyata '196 discloses the elements of claim 8 as noted above.

Miyata '196 fails to disclose wherein said warehouse comprises a registrar for registering each of the data capturing devices to an owner.

Jones '335 discloses wherein said warehouse comprises a registrar for registering each of the data capturing devices to an owner [claim 36]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miyata '196 to include wherein said warehouse comprises a registrar for registering each of the data capturing devices to an owner as taught by Jones '335.

The ordinarily skilled artisan would have been motivated to modify Miyata '196 per the above for the purpose of providing a real-time picture communications system [paragraph 13]

***Response to Arguments***

Applicant's arguments filed 2/13/2004 have been fully considered but they are not persuasive.

**First Applicant Argument:**

Applicant states in the third paragraph on page 6 "Applicants note that, unlike independent claims 1 and 8, the data capture devices disclosed in the '196 patent are not uniquely-identifiable. Rather these devices are merely used to capture various types of data (e.g., and image of the passer, a bar code on the photo identification card). The identity of the data capturing device in the system of the '196 patent is irrelevant."

**First Examiner Response:**

Examiner is not persuaded. Consider the following excerpt from the MPEP:

**MPEP § 2106. II.C Review the Claims:**

Office personnel must rely on the applicant's disclosure to properly determine the meaning of terms used in the claims. *Markman v. Westview Instruments*, 52F.3d 967, 980, 34 USPQ2d 1321, 1330 (Fed. Cir.) (*en banc*), *aff'd*, U.S. 116 S. Ct. 1384 (1996). An applicant is entitled to be his or her own lexicographer, and in many instances will provide an explicit definition for certain terms used in the claims. Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings.").

Office personnel must always remember to use the perspective of one of ordinary skill in the art. Claims and disclosures are not to be evaluated in a vacuum. If elements of an invention are well-known in the art, the applicant does not have to provide a disclosure that describes those elements. In such a case the elements will be construed as

encompassing any and every art-recognized hardware or combination of hardware and software technique for implementing the defined requisite functionalities.

Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415F.2d 1393, 1404-05, 162 USPAQ 541, 550-551 (CCPA 1969). See also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 13201322 (Fed. Cir. 1989) (“During patent examination the pending claims must be interpreted as broadly as their terms reasonable allow ....

Applicant does not particularly point to the specification for an explicit definition of the term “uniquely-identifiable” Examiner will thus give supra claim limitation its broadest reasonable interpretation. Examiner maintains Miyata discloses the following uniquely identifiable data capturing devices in Fig 3A and column 4, lines 1-31]: (i) Item 26 – a video camera for imaging a passer’s face, (ii) Item 27 – an image scanner for reading an ID card, (iii) Item 28 – an optical character reader 28 is connected to the image canner 27, (iv) Item 20 – a keyboard for inputting key data for searching and for inputting a control command for the gates.

**Second Applicant Argument:**

Applicant states in the third paragraph on page 7 “Applicants respectfully submit that claims 14-18 are patentable over the ‘335 application for at least the reason that the reference fails to disclose, teach, or suggest all of the limitations of the claims. Specifically, independent claim 14 is directed to a computer readable medium for warehousing data, and recites the feature/limitation/element of ‘logic that stores the received data sets according to an identity of the device that captured each data set.’ Applicants respectfully submit that the ‘335 application does not disclose, teach, or suggest this feature/limitation/element.”

**Second Examiner Response:**

Examiner is not persuaded. Applicant states on page 7 that the '335 reference does not teach the limitations of claims 14-18. Examiner is perplexed as the '335 reference relevant to instant invention is, element by element, clearly identified element in supra office action. Furthermore, examiner notes Rule 37CFR 1.111(b) requires Applicant to "distinctly and specifically point out errors" in the examiner's action. Also, arguments or conclusions of Applicant cannot take the place of evidence. *In re Cole*, 51 CCPA 919, 326F.2d 769, 140 USPQ 230 (1964).

Furthermore, examiner maintains the following disclosure by Jones in paragraphs 63-65 reads on the claim 14 limitation "logic that stores the received data sets according to an identity of the device that captured each data set."

[0063] FIG. 8 is a diagram of the fields in one example of the registry 28. As discussed briefly with reference to FIG. 2, the registry stores information on users, devices, and groups. The registry information for one embodiment is illustrated in FIG. 8; other embodiments may contain different or additional information as appropriate to meet the desired purposes.

[0064] The registry shown in FIG. 8 includes three sets of records: user information shown at 86, device information shown at 87, and group information shown at 88. In addition, subscriber information is shown at 89. The database structure may vary between embodiments; considerations such as scalability, security, subscriber service, fraud mitigation, and other factors can lead to structural variations. For example, the user information for each user may be stored with a user record, the device information for each device may be stored in a device record, and the group information for each group may be stored in a group record.

[0065] User information 86 includes a user name that is unique within the namespace utilized by the registry. Additional user information stored within the registry includes information necessary to authenticate the user (e.g. a password), access information such as a list of other users and devices with rights to access that user, the identity of a device to which the user is attached, and the owner, who has the right to change and update user information. In some embodiments, the authentication information comprises a secure authentication algorithm and necessary keywords which may, for example, be similar to that used by a GSM network to authenticate a GSM subscriber identity module (SIM). The owner of a user may be that user; that is, the person who is the user may also serve

the function of owner of that user identity within the registry. Additional information about the owner may be stored in the form of subscriber information 89, which may include information such as billing information, address, phone number, and so forth. Optionally other information about the user may be included in the registry, such as informal ID (e.g. handle) and usage history.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Patent related correspondence can be forwarded via the following FAX number (703) 872-9306

Etienne LeRoux

3/30/2004



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